

DECLARATION OF LARRY PHILPOT

LARRY PHILPOT hereby declares pursuant to 28 U.S.C. § 1746 that the following is

true and correct.

CV-17-0069-PHX

1. I am a photographer and the owner of the copyrights that are the subject of this request. I am making this declaration in support of my application pursuant to 17 U.S.C. § 512(h) for the Clerk to issue a subpoena to Domains By Proxy, Inc. to identify the actual registrant of certain domain names.

MC-17-0069-PHX

2. I own the copyright in the following pictorial works, which have been registered with the U.S. Copyright Office under the following numbers:

<u>Work</u>	<u>Registration No.</u>
<u>Buddy Guy</u>	VAu 1-164-648
<u>Kenny Chesney</u>	VAu 1-164-624
<u>Chris Daughtry</u>	VAu 1-164-624
<u>Jerry Lee Lewis</u>	VAu 1-164-648
<u>Kid Rock</u>	Vau 1-182-727
<u>Jonny Lang</u>	VAu 1-164-648
<u>LL Cool J</u>	VAu 1-164-624
<u>Lukas Nelson</u>	VAu 1-132-411
<u>Macy Gray</u>	VAu 1-164-648
<u>Neil Young</u>	VAu 1-164-648
<u>Norah Jones</u>	VAu 1-164-648
<u>Ted Nugent</u>	VAu 1-164-624
<u>Tom Petty</u>	VAu 1-164-624
<u>Randy Travis</u>	VAu 1-164-624
<u>Carlos Santana</u>	VAu 1-164-648

Jeff Tweedy V Au 1-164-648

Willie Nelson V Au 1-132-411

3. Each of the following domain names is hosting images that infringes one of my copyrighted works.

all-notes.com
Thegatewaypundit.com
cavemancircus.com
contender.com
dailyheadlines.com
famemoose.com
hooch.net
hotapplenews.com
jonathanturley.org
laurelcanyonradio.com
longroom.com
mainerepublicemailalert.com
notinhalloffame.com
patreon.com
popslam.com
random.com
smokingloud.com
spiritleaf.org
takinbreeze.com
the420times.com
thenewscommentator.com
theospark.net
timesofisrael.com
trendingviews.co
ticketaddiction.com

4. As of Nov 1, 2017, the following URLs contain an infringement of my copyrighted photograph of Kid Rock.

<https://www.longroom.com/discussion/597053/left-wing-hack-attacks-gateway-pundit-after-kid-rock-tweet>

<https://www.thenewscommenter.com/news/boom-kid-rock-leads-in-michigan-senate-race-poll/809278>

https://pbs.twimg.com/card_img/922270002098483202/9xJb3xlj?format=jpg&name=144x144_2

https://www.thenewscommenter.com/images/uploads/upload150085812266627_thumb.jpg

<http://www.thegatewaypundit.com/2017/07/left-wing-hack-attacks-gateway-pundit-kid-rock-tweet/>

<http://www.thegatewaypundit.com/2017/07/boom-kid-rock-leads-michigan-senate-race-poll/>

5. As of Nov 1, 2017, the following URLs contain an infringement of my copyrighted photograph of LL Cool J.

<http://www.notinhalloffame.com/rock-and-roll/144-110-ll-cool-j>

http://www.notinhalloffame.com/media/k2/items/cache/ebe9ac202a3149b75a8ae8adb2e1d8a7_L.jpg

6. As of Nov 1, 2017, the following URLs contain an infringement of my copyrighted photograph of Lukas Nelson.

<http://www.laurelcanyonradio.com/hear-lukas-nelson-and-promise-of-the-reals-soulful-songs-from-new-lp/>

<http://takenbreeze.com/2016/01/>

http://www.laurelcanyonradio.com/wp-content/uploads/2017/07/220px-Lukas_Nelson-220x280.jpg

http://takenbreeze.com/wp-content/uploads/2016/01/220px-Lukas_Nelson-195x300.jpg

7. As of Nov 1, 2017, the following URLs contain an infringement of my copyrighted photograph of Macy Gray.

<http://popslam.com/heres-real-reason-dont-hear-macy-gray-anymore/>

8. As of Nov 1, 2017, the following URLs contain an infringement of my copyrighted photograph of Neil Young.

<http://www.hotapplenews.com/article/neil-young-pulls-his-albums-from-apple-music-cause-they-sound-soooo-bad-27023605-83d732.html>
http://www.timesofisrael.com/neil-young-to-rock-tel-aviv-this-summer/&h=371&w=563&tbnid=zodYbnR_TpitDM&tbnh=182&tbnw=277&usg=__zhKp8z6-gQ9a7brg8EseerSLefk=&docid=4wT_JT_0Xap_fM
http://www.timesofisrael.com/neil-young-concert-canceled/&h=320&w=566&tbnid=hEN2cGPu9IBkXM&tbnh=169&tbnw=299&usg=__K8WMcEIPeSW0zOFoZj-nzmBZysY=&docid=jceHp0MFQUoJLM
http://www.timesofisrael.com/jordan-investigates-killing-of-syrian-rebel-commander/&h=79&w=140&tbnid=_dva3aP9GTycxM&tbnh=63&tbnw=112&usg=__Q8MSQVF1EkcoG3aa3dKXHKEO71U=&docid=buvLO7ZBhXSX5M

9. As of Nov 1, 2017, the following URLs contain an infringement of my copyrighted photograph of Ted Nugent.

<http://cavemancircus.com/2017/06/28/9-gloriously-depraved-rock-roll-stories/>
<https://www.contender.com/ted-nugent-tickets>
<http://dailyheadlines.net/2015/07/breasts-now-we-know-the-science-behind-why-men-love-them-so-much/>
<http://dailyheadlines.net/2015/09/hysterical-ted-nugent-if-obamas-a-christian-then-im-a/#>
<http://www.hooch.net/stars-gave-children-adoption/>
<https://jonathanturley.org/2016/02/10/ted-nugent-unleashes-rabidly-anti-semitic-rant-over-gun-control/>
<http://www.theospark.net/2015/09/everybody-hates-trumpfrom-rico.html>
https://s16.postimg.org/5uy09t8hx/Ted_Nugent_2013.jpg
<https://d8zh1sw4rf1ay.cloudfront.net/avatar/hd/p8j5.jpg?v=0.1.127>
<http://dailyheadlines.net/2015/07/breasts-now-we-know-the-science-behind-why-men-love-them-so-much/>
<http://dailyheadlines.net/2015/09/hysterical-ted-nugent-if-obamas-a-christian-then-im-a/#>
<http://www.hooch.net/wp-content/uploads/2016/09/001-ted-nugent-254933.jpg>
https://jonathanturley.files.wordpress.com/2016/02/220px-ted_nugent_2013.jpg
<http://1.bp.blogspot.com/-PVJUfiM8Y70/VgAU70LHIsI/AAAAAAC5-U/p9HzUp6sT10/s400/Ted%2BNugent.jpg>

10. As of Nov 1, 2017, the following URLs contain an infringement of my copyrighted photograph of Tom Petty.

<https://www.famemoose.com/tom-petty>
<https://www.patreon.com/posts/bdsers-sadly-put-14678975>
www.timesofisrael.com/tom-petty-confederate-flag-looks-to-a-black-person-like-a-swastika-looks-to-a-jew/
<https://trendingviews.co/tom-petty-dead/>
<http://www.ticketaddiction.com/>
<https://cdn.famemoose.com/images/tom-petty-primary>
https://c10.patreonusercontent.com/3/eyJ3IjoxNjAwfQ%3D%3D/patreon-posts/m1ZkTXrvu227D9PHGzW-Ue7t6-6468r-GvTMmRorF_KWhKg8l6hbnSjY3Adb6mua.jpe?token-time=2145916800&token-hash=oyZ1hy27_nOpdcJpsvMJxvBvjOwk7ceBCE4bOA0dXnE%3D
http://cdn.timesofisrael.com/uploads/2015/07/Tom_Petty_2-e1437151477550-635x357.jpg
<https://d6n6n9x6.ssl.hwcdn.net/media/articles/59d462316623ftompettyrocklegendeadat66.jpg>
<https://s3.amazonaws.com/ticketportal/p/thumbs/179633.jpg>

11. As of Nov 1, 2017, the following URLs contain an infringement of my copyrighted photograph of Willie Nelson.

all-notes.com/spare-a-dollar-5-performers-who-really-went-for-broke/
actorhunters.com/Actors/Willie-Nelson.html#.UdTgXWOkwpQ
<https://mainerepublicemailalert.com/2017/05/21/breaking-country-music-legend-willie-nelson-just-passed-away-surrounded-by-his-family-we-will-greatly-miss-him/>
randomstoryteller.com/2014/07/09/thank-god-hes-a-country-boy/
smoking-loud.com/celebrities/willie-nelson/
www.spiritleafministries.org/the-leaflet/view-leaflet-listing/25-alcohol
the420times.com/2013/07/country-music-artists-could-help-legalize-marijuana-but-will-they/
http://all-notes.com/wp-content/uploads/2012/07/2_600x720.jpg

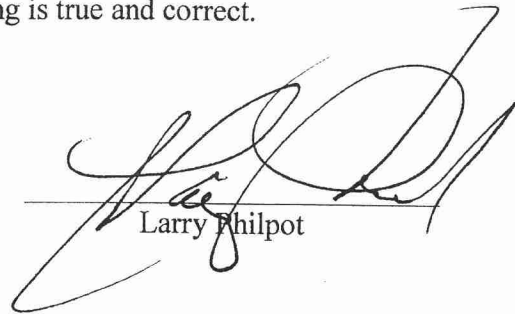
https://upload.wikimedia.org/wikipedia/commons/b/b0/Willie_Nelson_at_Farm_Aid_2009_-_Cropped.jpg
http://randomstorytellerdotcom.files.wordpress.com/2014/07/cropped-larry-philpot-www-soundstagephotography-com-willie_nelson_at_farm_aid_2009_-_cropped_pe.jpg?w=245&h=300
<http://smoking-loud.com/wp-content/uploads/2013/06/Willie-Nelson-1.jpg>
http://www.spiritleafministries.org/images/Willie_Nelson_at_Farm_Aid_2009_-_Wikipedia_SAVED.jpg
<http://3s0ugl1qamwo3v5dm83nwpw0.wpengine.netdna-cdn.com/wp-content/uploads/2013/07/willie-nelson-3.jpg>

12. Each of the domain names used in of these URLs is registered to Domains By Proxy, Inc., a privacy service.

13. The purpose of this subpoena is to obtain the identity of the infringer. The information I obtain from the subpoena will be used for the purpose of protecting my rights under the Copyright Act.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of December, 2017.



Larry Philpot

Schedule A

Documents sufficient to show the name, address, telephone number and email address for the (a) registrant, (b) administrative contact and (c) technical contact of the following domain names:

[List]

all-notes.com
Thegatewaypundit.com
cavemancircus.com
contender.com
dailyheadlines.com
famemoose.com
hooch.net
hotapplenews.com
jonathanturley.org
laurelcanyonradio.com
longroom.com
mainerepublicemailalert.com
notinhalloffame.com
patreon.com
popslam.com
random.com
smokingloud.com
spiritleaf.org
takinbreeze.com
the420times.com
thenewscommentator.com
theospark.net
timesofisrael.com
trendingviews.co
ticketaddiction.com

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the
District of Arizona

Larry G. Philpot

Plaintiff

v.

Domains by Proxy, Inc.

Defendant

Misc. Action No.

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTIONTo: Domains By Proxy, Inc.
14455 N. Hayden Rd. Suite 219, Scottsdale, Arizona 85260

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

Please see Schedule A.


Place: Larry G. Philpot 8125 Halyard Way Indianapolis, Indiana 46236	Date and Time: December 21, 2017 at 11:00 a.m.
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☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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The Provisions of Fed. R. Civ. P. 45 (d) and (e) are attached.

Date: Dec. 13, 2017

BRIAN D. KARTH
CLERK OF COURT

 Signature of Clerk or Deputy Clerk

OR

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party)

_____, who issues or requests this subpoena, are:
 Larry G. Philpot 8125 Halyard Way, Indianapolis, Indiana 46236 E-mail: larry@behindthemusic.net Phone:
 (317) 567-1338

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 16-cv-8914 (JHL) (JTG)

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print**Save As...****Add Attachment****Reset**

Rules 45(d) and (e) of the Federal Rules of Civil Procedure

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court must enforce this duty and impose an appropriate sanction – which may include lost earnings and reasonable attorney's fees – on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises – or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated (e) Duties in Responding to a Subpoena.

(e) Duties in Responding to a Subpoena

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

Schedule A

Documents sufficient to show the name, address, telephone number and email address for the (a) registrant, (b) administrative contact and (c) technical contact of the following domain names:

[List]